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C O N F I D E N T I A L BUENOS AIRES 002142

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STATE FOR GREGG RICKMAN, SPECIAL ENVOY DRL/SEAS
NSC FOR KOSAK AND ABRAMS

E.O. 12958: DECL: 10/29/2027
TAGS: [PGOV](#) [PREL](#) [ECON](#) [PHUM](#) [AR](#)
SUBJECT: STATUS OF POST ADVOCACY FOR HUMAN
RIGHTS/ANTI-SEMITISM CASE OF JEWISH ARGENTINE CITIZEN

REF: A. BUENOS AIRES 1943
[1](#)B. BUENOS AIRES 1924

Classified By: Ambassador E.A. Wayne for Reasons 1.4 (b,d)

Summary

[1](#)1. (C) Ambassador and Emboffs have devoted major resources to raise and investigate the human rights (and anti-Semitism) case of Argentine citizen Eduardo Saiegh (victim in 1980 of kidnapping, torture, and expropriation -- Reftels). The Ambassador has raised the case at high levels, and Econ/Poloffs have pursued it through the GoA bureaucracy. Result: the GoA and Eduardo Saiegh provide starkly different positions that appear very difficult to reconcile. The GoA states that Saiegh has never received a judicial ruling in his favor, and administrative rulings (including a Human Rights Secretariat ruling of state terrorism and anti-Semitism) are non-binding. Saiegh argues that an administrative ruling in his favor, instructing the GoA to forward a settlement offer to the President for decision, is binding; he accuses GoA and Central Bank (BCRA) officials of misleading Emboffs. Saiegh has been unsuccessful for over 27 years in swaying Argentine authorities to resolve the case, and his case is technically still in court. The Embassy was likewise unable to influence the outgoing (and now lame-duck) Kirchner administration to strike an out-of-court settlement. Post requests Washington guidance on next steps, and notes that beginning again from the top will require Embassy to argue details and merits of the case (see para 13). End Summary.

Advocacy Efforts Detailed

[1](#)2. (C) Since the actions described in reftel, the Embassy has continued to devote significant resources to communicating to the GoA and BCRA high-level USG interest in the complex case of Eduardo Saiegh, as well as investigating the facts of the case with various Ministries and the BCRA. Embassy has been pursuing the case because of reported human rights and anti-Semitism aspects. Saiegh, a Jewish citizen of Argentina, alleges that the military dictatorship kidnapped and tortured him and expropriated his assets in 1980. Specifically, the military government seized Mr. Saiegh's bank, Banco LatinoAmericano. (Post will forward a more complete SBU briefing via email to WHA/BSC, EB/OIA, and L/CID.)

[1](#)3. (C) The Ambassador raised Saiegh's case with Economy Minister Peirano on August 24, Foreign Minister Taiana on

September 20, and Central Bank President Redrado on October 13. Taiana and Redrado (but not Peirano) were somewhat familiar with the case, and all requested Emboffs to follow-up at the staff level. Econ and Poloffs have held numerous follow-up meetings and telephone conversations with the BCRA (including BCRA Vice President, Chief of Staff, and Head of bank liquidation department), Economy Ministry (new Legal Secretary and U/S, Chief of Advisors, Finance U/S), and the U/S for Human Rights (under the Justice Ministry). Ambassador met with Mr. Saiegh September 21, and Emboffs remain in almost daily contact with him. Ambassador also discussed the case September 17 with Gregg Rickman, Special Envoy for Monitoring and Combating Anti-Semitism.

14. (C) Post notes that a number of factors have complicated efforts to focus GoA attention on this matter, and have greatly slowed responses to Embassy inquiries. Principally, for the last three months the GoA has been focused to the exclusion of almost all else on the October 28 elections. Not only have high-level officials been distracted, but mid- and low-level officials have avoided potentially controversial issues. The numerous financial scandals in 2007 further encouraged the bureaucracy to avoid making decisions, signing documents, or offering opinions. Also, a new Economic Minister took over July 17 and totally replaced senior levels of the Economy Ministry's Legal Secretariat, which has the primary responsibility for this case. Finally, Post's contacts allege that there is general avoidance within the GoA and BCRA of issues related to late-1970s/early 1980s Military dictatorship.

Apparently Irreconcilable Differences

15. (C) The bottom line is that the GoA and Eduardo Saiegh provide completely opposite positions on the nature and

status of the case. The arguments from both sides are opaque and difficult to interpret, and their positions appear at present to be irreconcilable. The extreme difference of opinion over the basic facts of the case is surely one of the principal reasons that Saiegh has failed over 27 years to win his case here.

16. (C) Saiegh and his main advocate in the United States, Rabbi Morton Rosenthal (who has been in direct contact on this case with the Special Envoy's office and the NSC), informed the USG in July 2007 that Saiegh had favorable court judgments that the GoA was refusing to honor. They also noted that Saiegh has offered a settlement offer (of \$15 million), which the Economy Ministry had refused to forward to the President for decision (in alleged violation of an administrative ruling and several judicial orders). Rabbi Rosenthal suggested in his July 5 letter to the NSC and during his August 2 meeting with the Special Envoy's office that all that was required to convince the Economy Ministry to forward the settlement offer was for the Embassy to express USG interest and concern to high-level GoA officials.

17. (C) Nevertheless, the Embassy's approaches to top Kirchner cabinet officials have not succeeded in influencing the GoA to resolve this case. On the contrary, the Economy Ministry's new Legal Secretary, Eduardo Prina, informed Econoffs that Saiegh has never received a Judicial Sentence in his favor. While Saiegh still has several outstanding court cases (particularly regarding the bankruptcy of Banco Latinoamericano), Prina said he does not believe the GoA will lose in court.

18. (C) Prina also argued that the administrative decision in Saiegh's favor and the GoA Human Rights Secretariat's 2004 declaration (that the kidnapping, torture, and expropriation were acts of "state terrorism" and "anti-Semitism") were non-binding. Therefore, Prina noted, the Economy Ministry is under no legal obligation to negotiate a settlement deal. For its part, the BCRA argues that it is legally prohibited from taking any role settlement negotiations, and would have to recuse itself from any deliberations on the merits of the

case. The BCRA says the Economy Ministry has responsibility for negotiating deals. The BCRA also denied to Econoff that it was on the verge of liquidating Saiegh's bank (as Saiegh had insisted to Emboffs). According to the BCRA, it cannot liquidate Banco LatinoAmericano until Saiegh's court case is adjudicated.

Saiegh Accuses GoA/BCRA of Misleading Embassy

¶9. (C) Saiegh disagrees with GoA and BCRA versions of events, and accuses GoA and BCRA officials distorting facts. He believes that the various officials the Embassy has spoken to are providing misleading information (or even lying outright) and taking advantage of Econ and Poloffs' lack of knowledge of the case and of Argentine law. He has asked to accompany the Embassy on meetings with GoA and Central Bank officials, to set the record straight.

¶10. (C) Saiegh notes that the GoA's top lawyer (the Procurador del Tesoro) confirmed the administration judgment in his favor, and ordered Economy to forward the settlement deal to the Presidency. However, despite this confirmation and numerous judicial orders, Economy has not forwarded the offer. Saiegh also alleges that the GoA wants him to pursue a legal solution (obtain a judicial rather than administrative ruling) because the case would drag on forever through the court system and he would never receive justice.

Embassy Viewpoint

¶11. (C) Although Saiegh and his story strike us as legitimate, he has been unable after 27 years to obtain a resolution of his case in his own country either through judicial or administrative means -- even though, during the 1990s, he held high-level positions in the Menem government. Saiegh is now looking to use USG pressure to convince a reluctant GoA to strike a deal, as he does not expect to achieve justice through the courts. Nevertheless, it is not yet clear to Post that there has been a defining or binding legal or administrative judgment in his favor.

¶12. (C) Post's GoA and BCRA interlocutors have not been especially forthcoming or responsive in providing

information, returning telephone calls, or agreeing to meetings. Nevertheless, this case (or at least the bankruptcy) is still in the courts. As such, further USG intervention on behalf of Saiegh, an Argentine citizen, to press the GoA to agree to a settlement, could well in effect be encouraging the GoA to disregard its own legal system and procedures.

Next Steps

¶13. (SBU) Washington guidance is needed to determine next steps. Saiegh clearly wants the Embassy to broker a deal for him with the GoA. Since the GoA contends that Saiegh's case is still in court, we need to reconcile our desire to help Saiegh resolve his case with our respect for judicial autonomy. The Embassy is prepared to continue raising Saiegh's case with high and mid-level officials of the new administration that takes office December 10. However, Post does not have local staff expert in Argentine law to judge fully the merits put forth by parties in this case. In Post's view, the available options that might actually have some success would appear to require the USG to take at least an implicit position on the merits and facts of the case:

1) With elections over, the Ambassador could raise the case again at high-levels to urge GoA to settle, on the basis that it is a case of state terrorism against a Jewish citizen;

2) Allow Saiegh and his lawyers to accompany Emboffs on mid-level meetings to prevent GoA officials from giving misleading information;

3) Push mid-level officials for official response to Saiegh's counter-arguments, which would require detailed discussions

of legal facts.

-- There may be other options evident from a Washington perspective, but Post would like guidance and instructions before proceeding further.

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